S.B. CIVIL MISC. APPEAL NO.1446/2007
(Smt.Santosh Devi & Anr. Vs. Rooplal Transport Company & Ors.)

Date of Order :: 29th August, 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Sanjay Nahar for the appellants

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For awarding compensation to the dependents of the vehicular accident victim Subhash Shrimali, about 39 years in age, said to be working as conductor with Rajasthan State Road Transport Corporation and earning monthly salary of Rs.2,720/-, the Tribunal has provided for the component of future prospects at 25% and has taken his average monthly income at Rs.3,400/- per month; and deducting one-third wherefrom on personal expenditure of the deceased has taken multiplicand at Rs.27,200/- per annum; and with application of multiplier of 16 has assessed pecuniary loss at Rs.4,35,200/-. The Tribunal has further allowed Rs.2,000/- towards funeral expenses, Rs.5,000/- to the wife of deceased towards loss of consortium and Rs.3,000/- to the mother and the children towards non-pecuniary loss; and in this manner has made the award in the sum of Rs.4,45,200/- and has allowed interest at the rate of 6% per annum.

By way of this appeal, wife and son of the deceased (who had been non-applicants No.4 & 5 in the claim

application filed by mother and another son of the deceased) seek enhancement with the submissions that the Tribunal has not provided adequately towards future prospects and towards non-pecuniary loss; and it has also been urged that the Tribunal has erred in not allowing interest on the interim award amount though the interim award was made only on 18.05.2002 whereas the claim application was filed on 23.12.1995.

It may be pointed out that another appeal against the same award that was filed by the claimants, mother and one son of the deceased, being CMA No. 03218/2006: Smt.Gyan Devi and another Vs. Rooplal Transport Company & others, has already been dismissed by this Court on 15.02.2007. In the said appeal, the claimants raised the same question that the Tribunal has not provided adequate amount towards future prospects and has restricted on non-pecuniary loss. This Court has found,-

> "Having perused the award impugned, this Court is satisfied that the ultimate amount awarded by the Tribunal in this case at Rs.4,45,200/- cannot be said to be falling short of just compensation and there appears no scope for enhancement at the instance of the appellants.
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> In view of the age of the deceased at about 39 years, the estimate put by the Tribunal regarding future prospects at 25% of the last drawn salary of the deceased cannot be said to be falling too short of adequacy. The Tribunal has proceeded to allow maximum side multiplier of 16 in this case to assess pecuniary loss at

> Rs.4,35,200/-. Of course the amount of non-pecuniary loss in relation to the mother and children of the deceased at Rs.3,000/- appears to be standing a bit on the lower side; but in the ultimate analysis the award of compensation in the sum of Rs.4,45,200/- cannot be said to be too low or inadequate so as to warrant interference in appeal."

The aforesaid appeal, though barred by limitation by 25 days, has been rejected on merits while ignoring the delay; and for the very same reasons as noticed above, the present appeal does not merit admission. The award as made by the Tribunal cannot be said to be less than that of just compensation admissible in this case and rules out any scope for enhancement.

So far other contention regarding deprivation of interest on the amount of interim award is concerned, it is noticed from the record of the Tribunal that a larger part of proceedings after registering the claim application on 08.01.1996 till making of the interim award on 18.05.2002 was devoted towards service on the non-applicants; and the present appellants continued with their status as non-applicants in the case and never took any steps to expedite the proceedings; and it was stated by the Insurance Company by way of its application dated 26.05.1999 that another claim application No.03/1996 was filed by the claimants in relation to the same accident at Beawar; and having regard to the

circumstances of the case, even while making interim award, the Tribunal ordered that the amount shall be payable to the non-applicants Nos.4 and 5 (present appellants) on making specific statement of having not obtained compensation in any other proceedings. Then, though the claim application filed on 23.12.1995 was decided only on 22.11.2005, the Tribunal has otherwise not restricted on awarding of interest and has allowed the same at 6% per annum on the remaining award amount of Rs.3,95,200/-, after adjustment of the amount of interim award, from the date of filing of claim application.

In the ultimate analysis, there does not appear any reason to interfere or any scope for enhancement in this case.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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